



UNITED STATES PATENT AND TRADEMARK OFFICE

HE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/931,497 | 08/16/2001 | Timothy Turner | 400 P 1029 | 3669 |

7590 04/09/2003

Wallenstein & Wagner, Ltd.
53rd Floor
311 S. Wacker Drive
Chicago, IL 60606-6630

EXAMINER

NEWHOUSE, NATHAN JEFFREY

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3727

DATE MAILED: 04/09/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/931,497

Applicant(s)

TURNER ET AL.

Examiner

Nathan J. Newhouse

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 34 is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-17, 23-26, 29-33 and 35-38 is/are rejected.
- 7) ☒ Claim(s) 8, 18-22, 27, 28 and 39-43 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 August 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3,6-11.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 3727

DETAILED ACTION

Drawings

1. The drawings are objected to because figure 1 is difficult to see as the copy of the photograph is poor. Moreover, it would appear that applicant's invention is not appropriate for illustration by using a photograph. See MPEP 608.02 and 37CFR 1.84(b). Applicant is required to replace photograph figure 1 with an actual drawing. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7, 9-17, 23-26, 29-33 and 35-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Sergeant (US 5,950,858).

Sergeant teaches a can having an end with a central panel 10 with a tear panel 12 defined by a score and a pull tab 16. The end has a curl 20, a circumferential chuckwall (outer side of counter sink 18) and a transition wall (between the central panel 10 and the chuckwall). This transition wall has a fold 22. (NOTE: In the various

Art Unit: 3727

different embodiments shown in Sergeant, the central panel is considered to be the portion of the can end that is located inside of the fold.)

With respect to claims 2 and 12, each fold of all of the embodiments shown in figures 3-8 have a "width". This width is the distance extending outwardly relative to the longitudinal axis of the can.

With respect to claims 3 and 13, see the embodiments of figures 3-5.

With respect to claims 4 and 14, see the embodiments of figures 5 and 8. The length is the height of the folds in these embodiments.

With respect to claims 5 and 15, see the any embodiments of figures as the chuckwall extends longer than the thickness as shown by figures 2-8.

With respect to claims 6-7 and 16-17, see the embodiment of figure 8, where portion 24 forms a concave bend downward from the chuckwall and portion 26 forms a concave bend from the central panel.

With respect to claims 9-10 and 23, see the embodiments of figures 5-8, which all show the concave portions in engagement with the central panel. See NOTE above.

With respect to claim 11, see the embodiment of figure 5.

With respect to claims 24 and 33 see the embodiments of figures 5-6.

With respect to claims 30-31 see the embodiment of figure 5.

With respect to claims 35-38, the method of making the can end of Sergeant must inherently have hinge points. The curved surfaces of the folds in the various different embodiments are where the folds must initiate and therefore these curved surfaces are the hinge points.

Allowable Subject Matter

4. Claims 8, 18-22, 27-28 and 39-43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
5. Claim 34 is allowed.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Klein teaches a similar can end to what applicant is claiming.

Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, "should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners", M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 306-5648, email CustomerService3700@uspto.gov.

Art Unit: 3727

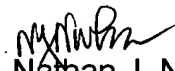
Any inquiry concerning the merits of the examination of the application from the examiner should be directed to Nathan J. Newhouse whose telephone number is (703)-308-4158. The examiner can normally be reached on Monday-Thursday 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on (703)-308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-872-9302 for regular communications and (703)-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1148.

Other helpful telephone numbers are listed for applicant's benefit.

| | |
|---------------------------------|---|
| Allowed Files & Publication | (703) 305-8322 |
| Assignment Branch | (703) 308-9287 |
| Certificates of Correction | (703) 305-8309 |
| Drawing Corrections/Draftsman | (703) 305-8404/8335 |
| Fee Increase Questions | (703) 305-5125 |
| Intellectual Property Questions | (703) 305-8217 |
| Petitions/Special Programs | (703) 305-9282 |
| Terminal Disclaimers | (703) 305-8408 |
| Information Help line | 1-800-786-9199 |
| Internet PTO-Home Page | http://www.uspto.gov |


Nathan J. Newhouse
Primary Examiner
Art Unit 3727

April 4, 2003